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DON ENRIQUE DALTON OF THE AZUSA

BY C. C. BAKER

Henry Dalton, or Don Enrique Dalton as he was called in pioneer days, was born in the city of London, England, October 8, 1803, the son of Winnall Trobally and Anna Dalton. Henry and his brother George came to the United States, both being Los Angeles County pioneers. Another brother, John, died of fever at Panama on his way to California.

The Dalton family claims descent from Sir Walter de Alton of the time of the Conqueror. A large estate was claimed by the family during the late eighteenth century, and in lengthy chancery proceedings it was proved that the recognized heir had taken passage for America in a sailing ship of which nothing was ever after heard. The inability to prove the death of this heir without issue caused the estate to revert to the crown.

Henry Dalton was early apprenticed to an elder brother, a merchant tailor, and became a member of the Tailors' Guild, one of the successors of those early craft guilds which had exerted such an influence in the city of London. Such occupation must have seemed prosaic to him, for he was of an adventurous spirit, as he later proved. Other fields seemed to offer him greater opportunities, and he left England for Peru at the age of fourteen. Only once, in 1832, did he revisit England. During this visit his elder brother pointed out to him Victoria, then Duchess of Kent, remarking, "There goes our future queen." However, the land of his nativity was always the land of his allegiance, for Henry Dalton died, as he had lived, a subject of Great Britain.

In the city of Lima, Peru, Dalton lived for about twenty-five years, building up an extensive general merchandising trade. He was also for a time British consular agent at Lima. His chief associate was James Bowman, later a San Francisco merchant. They owned several ships trading up the west coast. It may readily be supposed that information brought by these ships caused Dalton to come to investigate California's possibilities.

Dalton came to California as super cargo of the Mexican brig "Soledad," of 105 tons, from Mazatlan, which was on the coast from October to December, 1843.¹

Settling in Los Angeles, he bought in 1844, from Rafael Guirado, father-in-law of Gov. Downey, for \$400, part cash and part merchandise, a lot fronting about 300 feet each on Main and Spring Streets,

1. Bancroft, *Hist. of Cal.*, 2:773; 4:400, 568.

with its northern line at what is now Court Street. On the Main Street front of this property he built an adobe store, where he disposed of cargoes arriving for him at San Pedro to the rancheros in exchange, principally, for hides, tallow, wine and some grain. In later years the varied products of his ranchos were sold through this store. It was conducted by Dalton, through a manager, until 1860, when John MacDonald, then manager, died through having taken an overdose of laudanum while grieving over the death of a favorite daughter. The accounts of the store, admirably kept, for the most part, by Dalton himself, carry the names of all the early prominent men of the county.

On the Spring Street front of the Guiardo lot Dalton built the first wooden residence in the pueblo. From its three gables it was known as "*La casa de tres picos*" and "The Three Sisters." It was panelled inside with mahogany, was one and a half stories high, and was one of the pretentious buildings of the town.

Dalton owned several other tracts in Los Angeles. One, of about thirteen acres, lay on both sides of the river south of Aliso Street. Another was granted him by the Ayuntamiento in November, 1845, and was known as "Dalton's 100 vara lot." It extended from Main to Spring on both sides of Third Street. In later years a portion of an old adobe house on this lot was rented as a tonsorial emporium by a barber named "Nigger Pete." Still another tract was bought by Dalton in 1854 from Ygnacio Maria Alvarado and the Nieto heirs, fronting 150 feet on Main Street and stretching east to the old Zanja, for \$2400. On this lot Dalton built, in 1857, the first two-story brick residence in the pueblo, costing \$7000. Adjoining this residence was an adobe building used as a warehouse by Dalton, and occupied during part of 1862 as quarters by Co. I, Fourth U. S. Infantry. St. Vibiana's Cathedral is now located on this last tract.

Dalton early aspired to become a ranchero, but in this he seemed doomed to disappointment, since on August 14, 1844, the Departmental Government of the Californias forbade the authorization or legalization of sales of lands by the proper authorities. Unusual circumstances, however, caused a special arrangement to be made which favored Dalton.

The first phase of the revolution of 1844 against Gov. Micheltorena had closed with the Treaty of Santa Teresa. The governor, however, was preparing for eventualities. Early in December, 1844, he sent orders to Los Angeles that Andres Pico, with Pio Pico and José A. Carrillo, should organize a force to assist him in "suffocating a rebellion."² The pueblo was penniless, but these officers knew of one means of raising money. Luis Arenas owed the "national treasury" a thousand dollars, which he could pay only if the sale of his

2. L. A. Co. Deeds, 4:355-359.

lands was authorized. The Picos and Carrillo signed a document in which they stated that by the special powers given them by the governor they granted extraordinary permission for the authorization of the sale of Arenas' land, "these being the only means we depend upon in order to equip the number of men now ready to enlist under the aforesaid chief." This document was signed December 24, 1844, and on the same day Alcalde Manuel Requena authorized the sale. The deed from Arenas to Dalton, dated December 19th, was witnessed by Juan Bandini, Abel Stearns and Juan Manso, and was signed also by, or for, Ygnacio Palomares and Ricardo Vejar, associate owners of the San José, as evidence of their satisfaction with the sale. Under this deed Arenas transferred to Dalton a one-third interest in the Ranchos San José and San José Addition, the entire Rancho Azusa, 700 head of stock, and all farming implements on the ranchos, for \$7000, which, according to custom, he declared was all they were worth.

In recording the history of the rebellion, early in 1845, which was finally successful against Gov. Micheltorena, Bancroft states³ that Dalton was a member of the company of foreigners formed to assist the rebels. This must be in error. Nowhere in the Dalton papers is there mention of such service, and Mr. W. A. Dalton states he knows nothing of such service by his father.

There was a general form of procedure in the obtaining of land grants under Mexican rule. The person desiring the grant forwarded his petition for a named or described tract usually to the governor. The petition was referred by the governor in earlier times to the Ayuntamiento of the pueblo nearest the land. A committee of the Ayuntamiento held hearings, duly announced, at which any adverse claims might be shown. The report of this committee, approved by the Ayuntamiento, then went to the governor. In later years, the governor referred the petition to the prefect of the district in which the land was located, and the prefect himself, or by a deputized alcalde, held hearings on adverse claims, and reported to the governor. A report was also obtained for the governor from the administrator of any mission which might be supposed to claim the land. If the governor then approved the grant, the papers were laid before the Departmental Assembly, and if their approval was given the grant became a reality. The papers came then to the Ayuntamiento with instructions to give the grantee possession. A duly authorized alcalde, with several assistants, then went to the land, located the boundaries by means of selected landmarks, physical features, marked trees and rock heaps, and recorded these marks in a written instrument known as the act of juridical possession.

3. Bancroft, *Hist. of Cal.*, 2:774; 4:495.

The complete papers in the case were known as the *expediente*, and formed the grantee's title to the land.

These grants were made for the purpose of obtaining settlers on the land, and a general condition of the grants required the erection and occupation of a residence within one year. To retain settlers, grantees were prohibited from alienating their lands. A grantee could fence his land if he did so "without prejudice to anybody, or interfering with crossings or roads." Grants were also made with the condition that the grantee should not enjoin persons from cutting timber "so long as it is done according to the laws of wood cutting in the forests."

On March 24, 1837, Ygnacio Palomares and Ricardo Vejar petitioned for the grant of "the place known as San José." They were described in the report of the committee of the Ayuntamiento as native Mexicans who had rendered personal services to the government and had sufficient cattle to cover the land requested. Juan B. Alvarado, governor *ad interim*, approved the grant April 15, 1837. Juridical possession was given by Alcalde Don José Sepulveda, father of the late Judge Ygnacio Sepulveda, August 3, 1837.

Some time in 1838 Gov. Alvarado wrote Palomares stating that if he and Vejar would admit Luis Arenas as an equal partner in the San José an additional league of land would be granted the three. Palomares and Vejar agreed to this proposition, and they, together with Arenas, signed the petition for the new grant December 16, 1839. When this petition was referred to Juan Bandini, then administrator of Mission San Gabriel, he very tersely stated that the land "has belonged and now belongs to San Gabriel Mission." The effect of this statement was doubtless overcome by the statement of the prefect of the district that this as well as other land claimed by the Mission was not occupied by it. On March 14, 1840, Gov. Alvarado approved the grant to Palomares, Vejar and Arenas, in common, of the old San José, and of an additional league, henceforth called the San José Addition. Juridical possession, with reference to the Addition, was given May 7, 1840, by Alcalde Don Felipe Lugo.

On August 14, 1841, Arenas again petitioned for a grant, this time for land lying west of the San José Addition, called "El Susa" or The Azusa. This petition raised the ire of Padre Thomas Estenega of Mission San Gabriel. He stated the land belonged to the Mission. Further he would not report, but he gave out a significant hint that, with the approaching visitation of the bishop, not only would the further granting of mission lands be stopped, but grants already made would be revoked. This half-threat availed nothing. The land was reported vacant, and on November 8, 1841, the grant was approved by Manuel Jimeno, "senior member of the most excellent departmental *junta*." Juridical possession was given April 26,

1842, by either Alcalde Don Ygnacio Alvarado or Don Felipe Lugo, —which one is not certain.

One official declared that Arenas desired the Azusa "for the purpose of squaring his land, and it does not afford any other advantage." This reputation may have come because of the unsavory derivation of the name. Here was a rancheria of those Indians nominally attached to Mission San Gabriel, called in the Shoshonean *Asuksagna*, and in the Serrano dialect *Ashukshavit*, meaning, literally, skunk place.⁴ It was doubtless so named from the fact that skunks infested the hill which in pioneer days was occupied by the adobe dwelling and extensive ranch buildings, displaced now by Citrus Union High School in the present Azusa.

Knowledge of the extent and boundaries of these ranchos as given in the acts of juridical possession is necessary to an understanding of the subsequent litigation. The grant of the San José was by boundary, no quantity of land being mentioned. The boundaries were the "mountains of San Gabriel" on the north, the Arroyo San Antonio on the east, and the Lomas de Santa Ana and La Puente on the south and southwest. Going east along the foothills from the San Gabriel Cañon, the lesser cañons are, in order, the Big Dalton (formerly called both Boca Negra and San José), the San Dimas and the San Antonio. At the mouth of the Big Dalton Cañon a tree was selected as a landmark, and in it "was placed the head of a beef and some of its limbs chopped." This tree was known as the Sepulveda Oak, after the alcalde. This was the true northwest corner of the rancho. At its southwest corner, on the old San Bernardino road, was another landmark, El Encino de la Tinaja, or the Tinaja Oak, the common corner of the San José, the Addition and La Puente, and long one of the well known landmarks of the county.

The Addition joined the San José on the west. At its northwest corner was the Loma de San Felipe, St. Phillip's Hill, mentioned as "a small red hill," and so named because possession was given on St. Phillip's Day. It stands at the head of the present Citrus Avenue, just north of the Pacific Electric tracks. The Addition was one of those grants later called floating grants, that is, grants of a specified area inside given boundaries enclosing a greater area. The Azusa, like the Addition, was for one league in specified exteriors. The boundaries given were "the sierra" on the north, the River of Azusa, or San Gabriel, and the land of Andres Duarte on the west, the road to San José, now called the old San Bernardino road, on the south, and the San José Addition on the east. San Felipe Hill was a common corner of the Azusa and the Addition, from which it will be seen the three ranchos were continuous. The "road to San José was a common boundary of the Azusa and La Puente.

4. Univ. Calif. Publ. Am. Arch. Ethn. Vol. 12, No. 2, p. 35.

When Vejar signified his satisfaction with the sale of Arenas' interest in the ranchos to Dalton, he also asked that the San José and Addition be partitioned between the three owners. Proposals were evidently made in the matter by the interested parties, for Vejar and Dalton on November 16, 1845, petitioned Alcalde Vicente Sanchez for a conciliation with Palomares on the partition. The record of the proceedings is not complete, but it appears Palomares made certain conditions which were, at least partially, not agreeable to Dalton. On January 19, 1846, Alcalde Juan Gallardo gave notice that he would make the partition, and on February 11th, with Antonio F. Coronel as his assistant, the partition was made on the premises. The alcalde states that "all were satisfied except Don Ygnacio Palomares, who in a disrespectful manner left, saying he was not satisfied." Whatever may be said of Palomares' dissatisfaction, it at least is true that the partition was respected till American officials disregarded it. A survey and map according to this partition were made by Jaspar O'Farrell, and the map is of record.

The original grantees of these ranchos, Palomares, Vejar and Arenas, were related. Palomares, a member of that family prominent since Spanish times, was an alcalde of Los Angeles. His daughter Teresa married Ricardo Vejar, while his sister Josefa married, as her second husband, Luis Arenas. Vejar, though grantee of a principality, died poor at Spadra. Arenas, a native of Hermosillo, Sonora, came to Los Angeles in 1834, where he held several offices, including that of alcalde. He was seized by the "gold fever" in later years and went north to the mines. He acquired some gold by "digging," but more by gambling. It is said he would wager his gold by the hatful. An affidavit with his signature, dated October 15, 1852, is of record.⁵ He died poor at San José.

Early in 1845 Dalton petitioned for the grant of the San Francisquito. The grant was approved by Pio Pico, governor *ad interim*, May 26, 1845, but not by the Departmental Assembly till June 9, 1846. This rancho contained two leagues, and was bounded on the east by the San Gabriel River, across which lay the Azusa. Bancroft states⁶ that Padre Tomas Estenega was reprimanded for the sale to Dalton in 1845 of San Gabriel Mission lands for \$400. The lands are not located, but that they formed a part of the San Francisquito seems improbable.

The petition of Dalton for lands lying north of Azusa was made March 12, 1845. The committee of the Ayuntamiento reported favorably that he be granted "the mountains and cañons of Azusa stream and Boca Negra, excepting San Dimas." Why the grant was never made does not appear.

5. Bancroft, *Hist. of Cal.*, 2:701, states that Arenas was "still trading on the coast in 1847, but I have no later record of him."

6. *Ibid.*, 4:548, 637.

Dalton was administrator of Mission San Gabriel in 1846.⁷ On June 10th, he handed his resignation to the governor, mentioning the four months of his charge and submitting a statement of the affairs of the Mission, and of its accounts, showing a balance due him of over \$200. He states that "although he has incurred some expense he has claimed nothing for his own services nor his own dependents." One of the largest items in his bill is for "clothes, soap, money, etc., distributed to the Indians." The pressure of the creditors of the Mission caused Gov. Pico to appoint Antonio Cat and Perfecto Hugo Reid commissioners to audit the claims against the establishment. The result was that on June 8, 1846, Pico approved the grant of the remaining Mission estate to Reid and Wm. Workman on condition that they should pay all debts against the establishment, support the padre and pay the expenses of worship. Reid's interest passed to Aaron Pollard of San Francisco April 1, 1852, under foreclosure proceedings. In 1854 Dalton began suit to collect his claim from Workman and Pollard, but the whole matter came to nothing when the United States refused to recognize the validity of the grant by Pico.

At this time began the "passage of arms" which ultimately resulted in the loss of California by Mexico to the United States. In common with all rancheros, Dalton was required to furnish an armed and mounted man for the army. This man was armed with lance and "machete" made by the blacksmith at Azusa. His further equipment was doubtless similar to that of a man previously sent from the rancho, as described in the notes of the mayordomo of the Azusa: "Received a circular that numbered a man from every farm to go out on the campaign. Was obliged to get a man to go for the farm. Gave said man three horses, as the *bando* (circular) said, to go on; likewise \$30 in goods and one *fanega* of corn meal for his journey." In December, 1846, when Gen. José Maria Flores began preparations for his last attempt to save California to Mexico he obtained his supplies from Dalton. Flores made affidavit in 1851 that he had appointed Don Francisco Figueroa his paymaster, and that Figueroa "issued a certificate of the value of sixty odd thousand pesos in favor of Don Enrique Dalton, on account of money, merchandise, powder, armaments and food which he granted by way of assistance to the troops under my command." This "assistance" was, however, a forced loan. Bancroft states⁸ that, in order to further the payment of the certificates issued by Figueroa, Flores planned to send to Mexico the prisoners taken at the battle of the Chino Rancho, September 26 and 27, 1846, in order to "show results" to the central government, but the project failed. A quantity of hides and tallow

7. L. A. Co. Dist. Court, Papers, Case 118.

8. Bancroft, Hist. of Cal., 5:332-333.

in a warehouse at San Pedro belonging to Dalton were also destroyed by Mexican troops. These items formed the basis of a claim by Dalton against the Mexican government. Otherwise the change of régime came quietly to him.

Dalton purchased, May 29, 1847, for \$2000, from Perfecto Hugo Reid, the great Rancho Santa Anita, containing three square leagues. The grant to Reid was approved by Gov. Pio Pico, and, later, by the Departmental Assembly, May 7, 1845. There is a myth to the effect that Dalton secured the rancho for forty yards of calico, but it should be remembered that Reid was a Scotchman! The Santa Anita adjoined the San Francisquito on the north, thereby making the Dalton ranchos a continuous property.

On July 31, 1847, Henry Dalton was baptized at Mission San Gabriel, Perfecto Hugo Reid standing with him.⁹ This ceremony doubtless shortly preceded his marriage to Maria Guadalupe Zamorano, daughter of Augustin Vicente Zamorano, and his wife, formerly Maria Luisa Arguello, two family names prominent in California history. Señora Dalton was born in Monterey, December 18, 1832. Her beauty is often mentioned. I have the word of a pioneer, a squatter at Azusa, who knew her after middle age, who spoke of her fine appearance. A bell given by a priest to Señora Dalton at her wedding is now in the possession of her son Joseph at Azusa. To the great ranch house on Azusa Hill the young bride came.

The status of the land grant owners was recognized as a vital question in the peace negotiations at the close of the Mexican War. The tenth article of the Treaty of Guadalupe Hidalgo covered this point, but it was stricken out on the passage of the treaty by the United States Senate. Its place was taken, however, by a clause in the protocol signed at Queretaro, May 26, 1848, by the commissioners of Mexico and the United States. This clause stated that the United States recognized existing legitimate titles of all property, and did not desire to annul the Mexican grants of land. It was recognized that national legislation must be enacted for the purpose of confirming titles and definitely locating the boundaries of the grants. This was provided for in the act of Congress, approved March 3, 1851, known as the "Act to Ascertain and Settle the Private Land Claims in the State of California." For the confirmation of titles of the grants, this act created a "Board of Land Commissioners," to which claimants were to submit all evidence on which their claims were founded. From the Board's decision either party, the claimant or the United States, might appeal, first to the United States District Court, and next, and finally, to the United States Supreme Court. Claimants in southern California were handicapped by their distance from the tribunals and other authorities before whom their

9. Sugranes, *The Old San Gabriel Mission*, 102.

claims must be laid. The Board sat in Los Angeles only for a time in September and October, 1852, and for the remainder of its existence in San Francisco. A United States District Court was created for southern California, and for a time this convened in Los Angeles, but it, too, was removed. Even the district land office was for a time closed in Los Angeles, and during this time records invaluable in the prosecution of claims must be consulted in San Francisco. After the validity of the grant was confirmed, its boundaries must be located. The act provided for these surveys by creating a surveyor-general for California, located in San Francisco, whose deputy surveyors made all surveys of confirmed grants. From such surveys any claimant might appeal to the Commissioner of the General Land Office, and, finally, to the Secretary of the Interior. After the final decision on the survey the patent issued.

In this entire procedure it will be noted that the United States compelled the claimant to fight for his rights, opposing him at every point. Two judicial opinions are quoted to illuminate the procedure. "Parties to a decree of confirmation are not at liberty to question its correctness or ask for any modification." "From the action of the Surveyor-General, Commissioner of the General Land Office and Secretary of the Interior, there is no appeal. . . . The action of the Department is final, however much injustice it may do the grantees." These are the words which brought despair to more than one claimant whose title, though valid in 1848, was denied after years of costly litigation.

Before the Board of Land Commissioners, sitting in Los Angeles, Dalton filed the claims to his five ranchos on September 10, 14 and 29, 1852. Dalton's subsequent connection with the Santa Anita and San Francisquito was comparatively short, and the litigation over them less protracted, so they may be quickly disposed of.

The claim for the Santa Anita was approved by both the Board and the District Court, from which no appeal was taken. On May 30, 1854, Dalton sold the now famous rancho, together with thirteen acres lying on both side of Los Angeles River, in the present Los Angeles, to Joseph A. Rowe of San Francisco, for \$40,000. Rowe was a circus man and desired the land for winter quarters. The proceeds of the sale were invested by Dalton in a dock in San Francisco, in which his former Peruvian partner, James Bowman, was also interested. The patent for the Santa Anita, covering 13,319 acres, was signed by President Johnson, August 9, 1866.

Dalton's title to the San Francisquito was upheld by the Board, but this decision was reversed by the District Court. On appeal to the Supreme Court, however, Dalton won his case. During the subsequent survey the southern boundary of the rancho was in dispute. This was given in the act of juridical possession as "the road from Mission San Gabriel to La Puente," but between the time of the

grant and the survey the old road fell into disuse and a new one took its place. At the junction of the two roads a large post long bore Dalton's brand. Dalton carried his point, the old road was accepted as the boundary, and President Johnson signed the patent May 30, 1867, covering 8893 acres. Dalton showed his business ability and appreciation of conditions brought about by the influx of people, by having the San Francisquito surveyed and put on the market in small tracts, selling for a cash payment and the balance of the purchase price on time. He sold a third of the ranch to John O. Wheeler, clerk of the United States District Court, and the rest went to actual settlers. The town variously called Lexington, "Lick-skillick" and El Monte formed on the southern part, on the Overland Mail and Los Angeles—San Bernardino stage routes. Here, too, was the Willow Grove Hotel, then a well known hostelry. Ira Thompson, its urbane proprietor, informed the public that he had "laid off the grounds in a handsome manner, there being a large grove where visitors can enjoy the cool and refreshing breeze even in the hottest days." The last tract in the rancho was sold in July, 1875, by Dalton to W. S. and A. B. Chapman. The proceeds of these sales were generally used as they were paid Dalton for costs of litigation.

Dalton's claims for the Azusa and his portion of the San José and Addition were approved by both the Board and the United States District Court, and notice being given by the United States Attorney General that no appeal was contemplated, the District Court made its approval final June 4, 1857. A significant feature of these decisions is that the Board approved the claims of Palomares, Vejar and Dalton, granting to each the portion allotted under the partition of Alcalde Gallardo as shown on the O'Farrell map, whereas the District Court disregarded this partition and confirmed to each an undivided one-third of the San José and Addition, making them tenants in common.

The validity of the grants having been upheld, the surveys were now in order. That these were costly items may be shown by a letter received at a later time by Dalton, in which it was stated that the Surveyor-General was ready to appoint a deputy to commence a survey on the deposit of \$367 in gold coin. In October and November, 1858, Henry Hancock ran his survey of the San José, Addition and Azusa. He testified that he paid no attention to the O'Farrell map, and he would not consult the witnesses by whom Dalton expected to prove location of landmarks. Angry words passed between them. These things make of pointed value the words of Bancroft, who said,¹⁰ speaking of the surveyors, that their "judgment was

10. Bancroft, *Hist. of Cal.*, 6:548.

often more or less influenced by the guidance of interested parties." These parties, it appears, came later.

The striking errors of Hancock's survey were many. For the northwestern corner of San José, he took, not the Sepulveda Oak, but one about three miles southeast, on the recently surveyed San Bernardino Base Line. This tree became known as the Botello Oak, from Narcisso Botello, who declared it to be the true corner. Botello had been an instrumental witness at the juridical possession. The tree had been marked by Col. Henry Washington at the survey of the Base Line, and carried two marks, one on the east, one on the west side, to designate an east and west line. San Felipe Hill, a true corner common to the Azusa and the Addition, was taken as a landmark for the former, but not for the Addition. Instead, therefore, of the western line of the Addition being also the eastern line of the Azusa the two did not touch at any point. In fact, at its closest approach to the Azusa, the Addition lacked five-twelfths of a mile of touching it. The southern line of the Azusa was given as the road to San José, now the old San Bernardino road, but Hancock ran the line parallel to, but one and three-quarters miles from, this road, excluding some of the finest land while including in its place parts of the bed of the river not to this day under cultivation. This last error is the most glaring because Hancock himself ran the survey of the La Puente, placing its northern line on the old San Bernardino road. In the act of juridical possession of the La Puente its boundaries are mentioned thus: "The land adjoins and is bounded by the lands known by the names Rancho de San José, de Los Nogales, de Zusa, de Don Juan Perez, de Los Coyotes and Rio de San Gabriel." Hancock thus excluded about 18,000 acres from the three grants. Much of this land was actually under tillage, some fenced, and a portion formed Dalton's rodeo ground. It should be recalled that Arenas, in petitioning for the Azusa, stated that he wished it to be next to the west of the Addition "that my field estates may without interruption be extended."

Shortly after the Hancock survey squatters appeared on both the south and east lines of the circumscribed Azusa. They filed homestead and pre-emption claims, declaring the land to be government land. A large proportion of these had been employed by Dalton, or had been his tenants, and some had been befriended by him in trouble. Many came only to clear and sell the timber on the land, and hundreds of cords were taken off in this way. Their houses were mostly mere shacks, and they cultivated little till much later years. Dalton endeavored to be rid of the squatters through ejectment proceedings, but he was given no help in this by the authorities. Before the adjudication of Dalton's claims, the squatters were but trespassers and the failure to give Dalton relief by ejectment is peculiar, especially in the light of a known incident which was re-

lated by a pioneer. This pioneer stated that he and a friend, having word from an attorney that land titles were not good, squatted on land claimed by the late "Lucky" Baldwin. The next day they were ejected by the United States marshal. Why was not Dalton so protected? A small settlement sprang up at a place known as the Azusa Four Corners, near the present Irwindale.

Dalton at once appealed to the Surveyor-General for a new survey, submitting his evidence of the errors in the Hancock survey. His contest for a new survey was fought by the squatters, not with great power at first, but always with increasing power due to increasing numbers and means. The squatters at first fought on the principle that the lands excluded from the survey were public lands and subject to immediate entry. After a few years they claimed that for some time Dalton had not been in possession of the land, and had therefore renounced claim to all outside the survey. Later still, they claimed Dalton had actually removed his fences from the excluded portions. Dalton proved by contemporary entries in his diary that this fence was burned September 19, 1867, in a fire which for five days swept the rancho, and that the squatters took advantage of it to enter new parts.

Finally, in 1868, Dalton secured a resurvey, which was made by G. H. Thompson in August of that year. This survey gave the boundaries practically according to the O'Farrell survey. The squatters protested this survey, claiming the Hancock as the true survey. The fight was carried to the Secretary of the Interior, who, on September 20, 1872, approved the Hancock Survey, with a few trivial exceptions which were corrected in surveys run in 1874 and 1875 and then approved. In a later judicial decision it was said of this survey litigation that "the action of the department in this case is extraordinary, but it is final." Dalton saw hope for relief in another direction, so he accepted his patents, which were signed by President Grant; that for the San José, dated January 20, 1875, for 22,340 acres; for the Addition, dated December 4, 1875, for 4430 acres, Dalton receiving one-third of each of these; and that for the Azusa, dated May 29, 1876, for 4431 acres. Twenty-four years had elapsed between the filing of Dalton's claim and the issuance of the patents to cover it.

The hope for relief from his land troubles which Dalton, in common with many other land grant claimants, had seen, had come from the Act of Congress, approved July 23, 1866, known as "An Act to Quiet Land Titles in the State of California." It provided that bona fide purchasers, for a valuable consideration, of lands of Mexican grantees or assigns included in grants rejected by the United States, or of lands excluded from the final survey of a grant, could purchase such lands from the United States, upon first making proof of the facts, at the minimum price established by law, provided they

continued in possession and use of the same, with no valid adverse right except that of the United States, and provided they asked for a survey of such lands within ten months of the passage of this act.

Under this act, on August 16, 1878, Dalton filed with the Register and Receiver of the United States District Land Office at Los Angeles, his application for a total of 18,500 acres excluded from the surveys of the three ranchos, and on January 28, 1879, a decision denying his application was given. The decision was to the effect that Dalton having purchased of a Mexican grantee became in fact a Mexican grantee, and as such was outside the effect of the act. Such a decision, had it become of general application, would have virtually repealed the effect of the act. It was almost an insult to man's credulity, and would have been ludicrous had its effect not been so disastrous. Appeal was taken from this decision by Dalton to the Commissioner of the General Land Office, whose decision of April 14, 1880, was in Dalton's favor.

The squatters appealed to the final judge, the Secretary of the Interior. The arguments are illuminating. The chief contest was regarding possession, the squatters denying Dalton's possession for years. Dalton claimed no one had the right of settlement, but the lands were forcibly held. It was claimed no crops were grown on parts by Dalton, but he claimed that not tillage but use was contemplated by the act, else grazing would not be use. The squatters claimed the case *res adjudicata* with the issuance of the patents, and Dalton answered that he was not applying for more land to be included in the patent, but to purchase under a remedial act. Under an Act of Congress, approved June 27, 1866, the consolidation and revision of the United States Statutes was provided for, under commissioners whose compensation for three years was provided. A later act, approved May 4, 1870, revived the previous statute, authorizing a continuation of the revision for a period not longer than three years from the time the act took effect. The report of the commissioners was, therefore, due not later than May 4, 1873, and as there was no session of Congress between March 4th and December 1st, 1873, the revision covered all laws in force December 1, 1873. The bill adopting the revision became a law June 22, 1874.

From this revision the remedial land law of 1866 was omitted, and the squatters claimed the law was thus repealed, whereas Dalton claimed the commissioners had no power to repeal any law. The commissioners, too, in submitting their report, specifically stated that they had omitted laws of limited application, temporary and local in nature. The squatters claimed Dalton had not given Arenas a "valuable consideration" since he paid only fifty cents an acre. Arenas was, however, very anxious to sell. One claim of the squatters was ludicrous, even to one indulging in the wildest flights of fancy. This was that the squatters' improvements were of a value of from \$250,-

000 to \$300,000. A tenth of that sum would doubtless have been a highly exaggerated figure, if the tales of the pioneer squatters themselves are to be believed. The usual amount of vituperation and abuse was heaped on Dalton by attorneys for the squatters. They asked, "Does the law license him, an unnaturalized Englishman, to rob his neighbors, who are American citizens?" It was stated that a certain survey was made by Col. Henry Washington, "the pioneer surveyor of California, and a relative of Gen. George Washington, the first president of the United States," as if that were proof of anything. Dalton was said to claim land in forty sections and five townships, as though mere extent militated against validity. Dalton was described as the "beneficiary of two governments," but the attorney must have been of keen vision to discover wherein the land litigation with the United States was beneficial to Dalton.

There is an entry in Dalton's diary of May 28, 1881, reading: "At midnight Henry brought news that the case in Washington had been decided in favor of the squatters." The Secretary of the Interior held that Dalton's possession had not been continuous. Though he was not given protection in the ejectment of the squatters from lands under disputed title, the very residence of these squatters cost him his lands. He lost absolutely all in twenty-nine years of litigation to obtain a title which was guaranteed to him by treaty. The The Azusa had passed to other hands. After thirty-four years in the homestead on Azusa Hill, he left it on January 10, 1881, to spend the remainder of his years in an adobe house built in 1862 near the northern end of the present Azusa Avenue, and still standing till about 1913.

Such conditions can not be viewed with complacency. They seem to have been due generally to two main causes, a mistaken idea of land values, and the political value of numbers of votes. The emigrants from the east could think only of California's gold, and large land holders appeared to them in the light of monopolists. That the political power of votes was a factor is well shown by an incident in Los Angeles County. In the fall elections of 1873, the late Judge Ygnacio Sepulveda and Andred Glassell, of the firm of Glassell, Chapman and Smith, were candidates for district judge. In the interest of Glassell, George H. Smith, of this firm, signed and issued a statement to the voters of Azusa, stating that neither Glassell, Chapman, nor the firm, were then attorneys or friends of Dalton, that they had never favored Dalton in water questions, nor had ever given an opinion contrary to the squatters' rights. "In its application and practical results" the entire system of land grant confirmation was said by Bancroft to "merit only condemnation."¹¹ His

11. Bancroft, *Hist. of Cal.*, 6:575.

words in further condemnation of the system will bear repetition:¹² "The United States promised full protection of all property rights, and in theory they admitted the obligation to confirm not only legal but inchoate equitable titles; practically, by the system adopted, they declared that every title should be deemed invalid until the holder had defended it, at his own expense, through from two to six fiery ordeals against a powerful opponent, who had no costs to pay and no real interest at stake. It was in no sense the protection promised by the treaty to finally confirm a title after a struggle of eight to twenty-five years, when half or all the estate had passed from the possession of the original claimant; it was simply confiscation."¹³

In connection with the land litigation between Dalton and the squatters was carried on one of the bitterest fights over irrigating water in the history of the state. This is of such length and intricacy as to merit a separate paper. I have always held it secondary to the land litigation, on the grounds that without squatters there would have been no water fight, as it is only in comparatively recent years that the water Dalton claimed has supplied any other than the land he claimed.

The course of Dalton's finances is strewn with mortgages due to the absolute necessity of obtaining money to prosecute the litigation. The Azusa was first mortgaged on March 11, 1852, and it was never free from encumbrance from this date till it was lost to him by foreclosure. The San José after May 11, 1855, and the Addition after June 1, 1869, shared the same fate. Interest was often at two, three and four per cent. per month, sometimes payable monthly or quarterly in advance. In order to save something from loss, Mrs. Dalton, in 1862, during Dalton's absence, declared a state homestead exemption of 500 acres, but in 1867 this too was encumbered, and continued so. Dalton early borrowed money from Francois L. A. Pioche, the San Francisco capitalist, and Pioche bargained to finance the entire land litigation. But Pioche committed suicide May 2, 1872, leaving an estate which was involved in perhaps the most costly and intricate probate litigation in the state's history, and in which all Dalton's property was involved. To extricate his property a trust was created for all the Dalton ranchos, with Lewis Wolfskill as trustee and agent for Dalton. Some years afterward Wolfskill became insolvent, and Dalton's property again became entangled in what the judge who heard the case called the most complicated case regarding accounting that he had ever known. Money could not be raised to concentrate the indebtedness in one party, the land litigation went against Dalton and no more new land could be brought under mortgage, and finally the mortgages came

12. Bancroft, *Hist. of Cal.*, 6:576, 577.

13. *Ibid.*, 6:529-581, for an excellent exposition of the entire system of land grant confirmation.

due and were foreclosed. The Pioche Estate and the Los Angeles County Bank held the mortgages. After the foreclosures the three properties, Azusa, San José and Addition were concentrated in the hands of J. S. Slauson. Dalton's property in Los Angeles had been sold or lost piecemeal before this.

Dalton hoped to re-establish himself financially by securing payment of his claim against the Mexican government, or by taking advantage of a speculative turn in the real estate market.

The claim against Mexico was based, as before noted, on supplies furnished Gen. Flores and property confiscated by the Mexican army in 1846 and 1847. In 1849 Dalton went to Mexico, by boat to San Blas, chartering the vessel to await his return. He attempted, with the aid of the British minister, to effect a settlement, but to no avail. He left the claim in the hands of an agent and returned home after a nine months' absence. In later years he made three more trips to Mexico in the interest of his claim, one of a year in 1857 and 1858, another of two years from 1861 to 1863, and the last also of two years, from July, 1873, to July, 1875. These trips were by vessel, usually to Acapulco, thence by stage to the capital. On one trip bandits "held up" the stage four times. Dalton's claim was always recognized by the Mexican government as valid, and the government of Gen. Comonfort, in 1857, actually issued bonds to cover the claim, but the bonds were later cancelled. During his third visit to Mexico, in 1861-63, Dalton received for \$50,000, as part settlement of his claim, the claims of the Mexican government against the estates of the ex-Marquis de San Miguel de Aguayo,¹⁴ a Spanish general in the Mexican war of independence, whose estates were probably confiscated, including the haciendas of Parras, Patos, Bonanzas and Villa del Rosario. During the wars of the Empire, which followed, the trustee of this estate, Sanchez Navarro, was an active imperialist, and on the triumph of Juarez the estate was confiscated without regard to Dalton's right. In exchange for his interest in the estate, Dalton, in 1873, received \$30,000 in bonds, which realized \$900, \$7500 in treasury notes (which were not paid) and \$12,500 in what might be called land scrip, redeemable in church property. For the last Dalton received, in March, 1874, the Convent of Santa Teresa at Queretaro. Later he sold the convent to the Bishop of Queretaro for \$15,000, part cash, the balance in monthly installments, which were completed shortly before Dalton's death. From this convent several oil paintings were brought home by Dalton. In 1892 Dalton's estate received bonds from the Mexican government of the face value of \$54,825, actual value of \$20,559, to balance the claim. Thus it is again disproved that Dalton was "the beneficiary of two governments."

14. Bancroft, *Hist. of Mex.*, 4:432.

There are two interesting facts regarding Dalton's stay in Mexico in 1863. He was in Mexico City on June 10th, when the French army entered the city and began what ended in tragedy. Seventeen days later Dalton was granted a concession to mine and export gypsum from the barren island of San Marcos, opposite the Bay of Mulege, Lower California. He was to receive a grant of land 200 meters square and pay a yearly rental of twenty pesos. The notice of concession is signed by Jesus Teran,¹⁵ minister of Justice and of Public Works and Instruction at San Luis Potosi, whither Juarez had moved his capital as the French neared Mexico City. The gypsum was probably to be sold as a commercial fertilizer; it is particularly effective in the eradication of alkali. This is another instance showing Dalton's wide practical knowledge.

In 1851 the town of Benton was laid out by Dalton to the south of Azusa Hill. The lots in this proposed city, as well as the residence on Spring Street, "*La casa de tres picos*," and lots in Los Angeles, were prizes in a lottery financed by Dalton and known as the "Great Southern Distribution of Real Estate and Personal Property." The drawings in this lottery were never held—why is not known—and Benton became only a memory.

Dalton in 1876 signed an agreement to sell the Azusa to Gen. Boschke for \$100,000, but the sale did not materialize. Smith's Island, in San Pedro harbor, was formerly known as Boschke's Island, after the general.

On July 25, 1878, were signed the articles of incorporation of the Mound City Land and Water Association. This company had already bought from Dalton the Azusa, San José and Addition for \$140,000, \$10,000 of which had been paid, partly in stock. Mound City was to be built near the western edge of the present Azusa, and a few buildings were actually erected here. The balance of the ranchos were to be sold as small farms. Had this company been able to make its payments Dalton would have been saved. But the incorporators had no capital, the prices they asked for farms were prohibitive and there were therefore no sales, and they and Dalton both lost out completely when their prospective city failed to develop.

When a new suit over water rights at Azusa was about to be instituted in January 1884, an application was made to the court to perpetuate the testimony of Dalton by obtaining a deposition from him. Dalton was described as "old, sick and infirm, and in a dying condition." The deposition was taken on January 12th, at the home of Frank Sabichi in Los Angeles, where Dalton passed his last days. He was asked, "Were you formerly the owner of said ranch (the Azusa)?" His answer was characteristic of him: "I purchased it in 1844 in December, and ought to own it at the present day."

15. Bancroft, Hist. of Mexico, 6:71, 72.

He died January 21st, in his eighty-first year. Of a family of eleven children, his brother George alone survived him. Mrs. Dalton survived her husband thirty years, dying September 1, 1914. To this union were born eleven children, four of whom died in infancy. Of the others Winnall Augustin married, and is living in Tucson, Arizona; Luisa married Lewis Wolfskill, and died in 1887; Soyla married William Cardwell, and lives at Azusa; Henry married, and lives at Caborca, Mexico; Elena married J. L. Plummer, and lives at San Fernando, this county; Valentine married, and is dead; and Joseph married, and lives at Azusa.

In Dalton's will, dated January 8, 1884, claims against both the Mexican and United States governments are listed. The claim against the United States was for damages for loss of his property. In the probate proceedings this claim was described as "of no commercial value." The efforts of every broad-minded, far-seeing pioneer, and such was Henry Dalton, are of commercial value, however, and later generations do profit by them.

It is to be hoped the writer will not be accused of having succumbed to that malady termed by Macaulay the "Lues Boswelliana, or disease of admiration." If one attempting an historical narration is carried away by the magic carpet he has attempted to weave for the transport of others to an ideal land in which wrongs may be righted on proper exposition, let it be charged to a desire to see justice extended to those who seem to have had little of it shown them while here.

* * * * *

Though Henry Dalton was a prominent pioneer and one of the largest land holders in the county, very little has been written of him. The newspaper accounts are generally of no value, containing what were perhaps the results of the wildest flights of the reporter's fancy. It is peculiar that these myths have gained such acceptance. My most valuable source has been Henry Dalton's papers, which were placed at my disposal through the kindness of his children. The most important of these are the volumes containing his diary, called by him "Daily Occurrences at The Azusa." This diary covers part of the year 1845, and, unbroken, from October, 1856, to September, 1883. Each day an entry was made, by Dalton when he was on the rancho, in his absence by the *mayordomo*, by Mrs. Dalton, or by W. A. Dalton, the oldest son. The entries are in both Spanish and English, and cover in detail all the varied activities of the rancho and its owner. Dalton's correspondence, comprising both letters received by him and copies of letters he wrote, is valuable. There are also numbers of legal papers; of these the most valuable for my purpose were briefs on cases in the United States courts, since I have been unable to consult the court records in San Francisco. Another most valuable source has been the correspondence of Mr. Win-

nall Augustin Dalton, of Tucson, Arizona, born June 14, 1850, the oldest child of Henry Dalton that survived infancy. Mr. Dalton's intimate personal acquaintance with the details of his father's life and fortunes and with the ranchos themselves, combined with a remarkable and accurate memory, make him a veritable treasure to one attempting to write this history. My last chief source has been the county records, and when it is known that Henry Dalton received five patents from the United States, was a party to 118 deeds and 36 real estate mortgages, besides numerous miscellaneous documents, and figures in sixty cases in the various county courts, the value of this source may be readily appreciated.